

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

Monte J. Gist,

Petitioner, : Case No. 3:09-cv-116
- vs - : District Judge Walter Herbert Rice
Warden Lebanon Correctional Institution, : Magistrate Judge Michael R. Merz
Respondent. :

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Supplemental Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #7), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Supplemental Report and Recommendations.

Accordingly, it is hereby ORDERED that the Petition is DISMISSED with prejudice. Petitioner is also DENIED leave to appeal *in forma pauperis* and any request for certificate of appealability.

June 23, 2009.



Walter Herbert Rice
United States District Judge